

Pradeshiya Sabhas Act

Pradeshiya Sabhas act

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SCHEDULES

- 15 of 1987,
- 34 of 1993,
- 14 of 1999,
- 21 of 2012,
- 36 of 2014.

AN ACT to provide for the establishment of Pradeshiya Sabhas with a view to provide greater opportunities for the people to participate effectively in decision-making process relating to administrative and development activities at a local level; to specify the powers, functions and duties of such Sabhas; and to provide for matters connected therewith or incidental thereto.

[Date of Commencement: *16th April, 1987*]

1. Short title.

This Act may be cited as the Pradeshiya Sabhas Act.

PART I

CONSTITUTION OF PRADESHIYA SABHAS

2. Constitution of Pradeshiya Sabhas.

(1) The Minister may, with a view to facilitating the effective participation of the people in Local Government and development functions, by Order published in the *Gazette* declare any area to be a Pradeshiya Sabha area for the purposes of this Act and shall define the administrative limits of the area so declared. The administrative limits of every Pradeshiya Sabha area so declared shall, as far as possible, correspond to limits of an Assistant Government Agent's division excluding any areas comprised in a Municipality or a town (within the meaning of the Urban Councils Ordinance) which falls within the limits of such Assistant Government Agent's division. The Minister may by the same Order or by a subsequent Order, constitute a Pradeshiya Sabha for such Pradeshiya Sabha area and assign a name to such Sabha.

(2) Every Pradeshiya Sabha constituted by an Order under subsection (1) shall be a body corporate with perpetual succession and a common seal and shall have power, subject to the provisions of this Act, to acquire, hold and sell property and may sue and be sued in such name.

(3) The common seal of the Pradeshiya Sabha shall remain in the custody of the Secretary of such Sabha, and shall not be affixed to any contract or other instrument on behalf of the Pradeshiya Sabha, except in the presence of the Chairman and the Secretary of such Sabha, who shall sign their names to such contract or other instrument in token of their presence.

(4) No act or proceeding of a Pradeshiya Sabha constituted by an Order under subsection (1) shall be deemed to be invalid by reason only of the existence of a vacancy among its members or any defect in the election of a member thereof.

3. Functions of the Pradeshiya Sabhas.

The Pradeshiya Sabha constituted for each Pradeshiya Sabha area shall be the local authority within such area and be charged with the regulation, control and administration of all matters relating to public health, public utility services and public thoroughfares and generally with the protection and promotion of the comfort, convenience and welfare of the people and all amenities within such area.

4. Composition of Pradeshiya Sabhas.

(1) A Pradeshiya Sabha constituted by an Order under subsection (1) of section 2, shall consist of—

[S 4(1) subs by s 15 of Act 21 of 2012.]

(a) such number of elected members as determined by the Minister by Order made under section 3C of the Local Authorities Elections Ordinance; and

[S 4(1)(a) ins by s 15 of Act 21 of 2012.]

(b) such number of other members not exceeding thirty per centum of the total number of elected members as determined under paragraph (a), to be returned as members under the Local Authorities Elections Ordinance, to represent those electors who have not secured any representation in the Sabha, at an election held for the election of members .

[S 4(1)(b) ins by s 15 of Act 21 of 2012.]

(2) Where the number constituting thirty *per centum* referred to in paragraph (b) of subsection (1) is an integer and fraction, the integer shall be deemed to be the number which shall constitute such thirty *per centum*, for the purpose of that subsection.

[S 4(2) ins by s 15 of Act 21 of 2012.]

5. Term of office of members.

(1) The term of office of each member of a Pradeshiya Sabha elected at a general election shall—

(a) in the case of the first general election be calculated from the date specified by the Minister under section 6; and

(b) in the case of a member elected at a general election subsequent to the first general election, be calculated from the date of expiration of the term of office of the members of the immediately preceding Pradeshiya Sabha,

and shall, unless such member vacates office earlier by death, resignation or removal be for a period of forty-eight months.

(2) The Minister may, by Order published in the *Gazette*—

(a) curtail the term of office referred to in subsection (1) by appointing, in substitution for the date on which the term of office expires, a day of any month preceding the month on which such term of office expires in that year or in the year immediately preceding that year;

(b) extend such term by appointing, in substitution for the date on which the term of office expires under subsection (1) or on the date appointed under paragraph (a) of this subsection a day of any month after the day on which the term of office expires in that year or in any year subsequent to the year so specified or appointed and thereafter from time to time extend such term by appointing in substitution for the date of expiry of such term specified in the last Order, a later date:

Provided, however, that the period by which such term is extended or the aggregate of the periods by which such term is from time to time extended shall not exceed twelve months.

(3) Where a member is elected in place of a member of a Pradeshiya Sabha who dies, resigns or otherwise vacates office, he shall subject to the provisions of this Act, hold office for the unexpired period of office of his predecessor.

6. Commencement of term of office of Pradeshiya Sabha and date.

The term of office of each Pradeshiya Sabha to be constituted under this Act shall commence on such date as the Minister may appoint by Order published in the *Gazette*. Such date shall be deemed to be the date of the constitution of such Pradeshiya Sabha for all purposes of this Act, and such Pradeshiya Sabha shall be deemed to be constituted on that date.

7. Vacation of office.

Any member of a Pradeshiya Sabha who without leave of the Pradeshiya Sabha first had and obtained fails to attend meetings of the Pradeshiya Sabha for a period of three months shall ipso facto vacate his office.

8. Chairman and Vice-Chairman.

(1) The Chairman of a Pradeshiya Sabha shall be the chief executive officer of the Pradeshiya Sabha, and all executive acts and responsibilities which are by this Act or any other written law directed or empowered to be done or discharged by the Pradeshiya Sabha may, unless the contrary intention appears; from the context, be done or discharged by the Chairman.

(2) The Chairman may by order in writing delegate to the Vice-Chairman or Secretary or any other officer of the Pradeshiya Sabha any of the powers, duties or functions conferred or imposed upon or vested in the Chairman by this Act or any other written law.

(3) The exercise, discharge or performance by the Vice Chairman or the Secretary or any other officer of the Pradeshiya Sabha of any Power, duty or function delegated to him by order of the Chairman, shall be subject to such conditions and restrictions and limited to such purpose or purposes as may be specified in the order: and any such delegation may at any time be varied or cancelled by order of the Chairman.

(4) During the period of absence of the Chairman on a count of illness or other unavoidable cause, the Vice-Chairman may exercise the same powers and perform the same duties as the Chairman.

9. Appointment, powers and duties of Secretary.

(1) There shall be appointed a fit and proper person to be or to act as the Secretary of the Pradeshiya Sabha.

(2) The Secretary of a Pradeshiya Sabha shall be the chief administrative officer of the Pradeshiya Sabha and shall exercise, perform and discharge such powers, duties and functions as are conferred or imposed upon him by this Act or any rules made under this Act or by any other written law for the time being in force.

(3) Where a Pradeshiya Sabha is unable to discharge its functions by reason of the Chairman and Vice-Chairman ceasing to hold office, the Secretary shall, during any period that elapses between the occurrence of the vacancies in respect of those offices and the filling of those vacancies in accordance with the provisions of the Local Authorities Elections Ordinance, have, exercise perform and discharge all the rights, privilege, powers, duties and functions vested in or conferred or imposed on, the Pradeshiya Sabha, the Chairman or Vice-Chairman by this Act or by any other written law.

9A. Power of Minister to vary limits of Pradeshiya Sabha area and number of members and to dissolve and replace Pradeshiya Sabha.

The Minister may at any time by Order published in the *Gazette*—

- (a) vary the limits of any Pradeshiya Sabha area, in a manner consistent with the provisions of section 2;
- (b) vary the number of members determined under section 4 for any Pradeshiya Sabha, in accordance with the principles set out in that section;
- (c) dissolve any existing Pradeshiya Sabha and direct that it shall be replaced by new Pradeshiya Sabha to be constituted *in lieu* of such existing Sabha, whenever it appears to him to be expedient so to do upon any variation of the limits of the Pradeshiya Sabha area for which the existing Sabha was constituted;
- (d) dissolve any Pradeshiya Sabha for the purpose of constituting in its place a Municipal Council or an Urban Council. In constituting a Municipal Council,

the Minister shall comply with the provisions of section 2 of the Municipal Councils Ordinance and shall also have regard to the development or amenities of the area for which such Municipal Council is to be constituted; and in constituting an Urban Council, the Minister shall comply with the provisions of section 2 of the Urban Councils Ordinance:

Provided that no Order made by the Minister under this section shall come into force until after the expiration of the terms of office of the members of any existing Pradeshiya Sabha referred to in the Order.

[S 9A ins by s 2 of Act 14 of 1999.]

9B. New Pradeshiya Sabha to be successor of existing Sabha.

Where any new Sabha is constituted under section 9A *in lieu* of any Pradeshiya Sabha which is dissolved—

- (a) the new Sabha shall, from the date of the constitution thereof, be the successor of the dissolved Sabha for all purposes relating to the Pradeshiya Sabha area or any part thereof for which the dissolved Sabha was constituted, in so far as such area or part thereof is included within the administrative limits of the Pradeshiya Sabha area for which the new Sabha is constituted;
- (b) all the property of such dissolved Sabha situated within the administrative limits of the new Sabha and all the rights, powers, duties, debts, liabilities, and obligations of such dissolved Sabha in so far as the same relate to any area within the administrative limits of the new Sabha shall as from the date of the constitution of the new Sabha be deemed to be transferred to the new Sabha;
- (c) all references in any enactment, or in any Order, rule, regulation, or by-law made thereunder or any document or instrument executed or issued in pursuance thereof, to such dissolved Sabha shall, for the purpose of any area within the administrative limits of such dissolved Sabha which shall be included within the administrative limits of the new Sabha, be construed as though they were references to the new Sabha.

[S 9B ins by s 2 of Act 14 of 1999.]

10. Chairman or Vice-Chairman to preside at meetings of the Pradeshiya Sabha.

The Chairman or in his absence the Vice-Chairman shall preside at all meetings of the Pradeshiya Sabha and if both the Chairman and Vice-Chairman are absent, the members present shall elect one of their own number to preside at the meeting.

11. Meetings.

(1) Ordinary meetings of a Pradeshiya Sabha shall be held for the dispatch of business on such dates or at such intervals as may be fixed by by-laws or rules made or deemed by any written law to have been made under this Act.

(2) A special meeting of a Pradeshiya Sabha may be convened by the Chairman whenever he considers it desirable and shall be convened whenever a written requisition is presented to him signed by members of that Pradeshiya Sabha not less in number than the quorum prescribed for ordinary meetings of the Pradeshiya Sabha.

(3) The special meeting in compliance with any requisition shall be convened within seven days of the receipt of the requisition in by the Chairman.

(4) If the Chairman of any Pradeshiya Sabha refuses or wilfully neglects to convene a special meeting within seven days of the receipt of any requisition persisted to him, it shall be lawful for the Assistant Commissioner to convene a special meeting at any time thereafter and to preside or to depute a public officer to preside over that meeting.

(5) Not less than two days notice of the date appointed for each special meeting under this section and of the business to be transacted thereat shall be given to, or left at the residence of, each member of that Pradeshiya Sabha.

12. Pradeshiya Sabha to appoint Committees.

(1) A Pradeshiya Sabha may, from time to time, appoint committees consisting either of members of the Sabha or partly of members of the Sabha and partly of other inhabitants of the Pradeshiya Sabha area, and of the Chairman of the Gramodaya Mandalayas established within such Pradeshiya Sabha area for the purpose of advising the Sabha with reference to any of its powers, duties and functions, or any matter under the consideration of the Sabha, and may, from time to time, subject to such conditions as it may determine, delegate any of its powers and duties to such committees other than the power to raise any loan, to levy any rate or to impose any tax.

(2) A separate Committee shall be appointed under subsection (1) to advise the Pradeshiya Sabha on each of the following subjects—

- (a) finance and policy making;
- (b) housing and community development;
- (c) technical services; and
- (d) environment and amenities.

Subject to the foregoing, any number of Committees may be appointed under subsection (1).

13. Quorum.

The quorum for any meeting of a Pradeshiya Sabha shall be one-third of the number of members in office on the date of that meeting. Where one-third of such number is an integer and fraction, the integer immediately higher to that integer and fraction shall be deemed to be the one-third for the purposes of this section.

14. Powers of Pradeshiya Sabhas to be vested in the majority.

(1) All matters or questions authorised by this Act or by any other written law to be decided by a Pradeshiya Sabha shall be decided upon by the majority of members present at any meeting of the Pradeshiya Sabha held in accordance with the provisions of this Act.

(2) Where the votes of the members present at any meeting are equally divided in regard to any question, the Chairman, Vice-Chairman or other member presiding at the meeting shall, in addition to his vote as a member, have a casting vote.

15. Minutes.

All proceedings, decisions, orders and acts of a Pradeshiya Sabha shall be entered in a book of minutes, and upon their confirmation with such amendments as may be necessary at the next succeeding meeting of the Pradeshiya Sabha, shall be signed by the Chairman; and a copy certified by the Chairman, of any record so entered and signed, shall be admissible in evidence in any court or tribunal in Sri Lanka.

PART II

STATUS, POWERS AND DUTIES OF PRADESHIYA SABHAS

16. Vesting of movable and immovable property and assets and liabilities in a Pradeshiya Sabha.

(1) All such movable or immovable property vested in a Development Council and situated or used, in Pradeshiya Sabha area, on the day preceding the date as pointed under section 1, as may be determined by the Minister or by any officer authorised in that behalf in writing shall vest in the Pradeshiya Sabha constituted for such Pradeshiya Sabha area, with effect from the date of such determination.

(2) Any dispute as to whether any movable or immovable property is a movable or immovable property to which subsection (1) applies, shall be referred to the Secretary to the Ministry of the Minister and his decision thereon shall be final.

(3) All assets and liabilities acquired, or incurred, by a Development Council in the exercise of its Local Government powers with respect to a Pradeshiya Sabha area, shall, with effect from the date appointed under section 1, stand transferred to, and vest in, the Pradeshiya Sabha constituted for that Pradeshiya Sabha area.

(4) All rates, taxes, duties, fees or other charges levied, by a Development Council, under the Town Councils Ordinance or the Village Councils Ordinance or any other law relating to Local

Government, in respect of any land or thing in a Pradeshiya Sabha area and remaining unpaid on the date appointed under section 1, shall be paid, from and after that date, to the Pradeshiya Sabha constituted for that Pradeshiya Sabha area.

17. Methods of vesting administration of such land.

(1) A vesting order, certificate or other record, signed by the persons authorised to make over any property referred to in section 16 and by an officer of the Pradeshiya Sabha authorised to receive or accept such property on behalf of a Pradeshiya Sabha shall be sufficient, and shall be deemed at all times to have been sufficient to vest such property and all rights, title and interest in such property in such Pradeshiya Sabha.

(2) Nothing in section 16 or in the provisions of this section shall be deemed—

- (i) to affect or prejudice any right or title of the state to any such property, or the right of the State at any time to resume or dispose of such property for public purposes; or
- (ii) to affect or prejudice any right, title or interest which any military or other authority, in which lands are vested on behalf of the State, has or may have in such property; or
- (iii) to empower the Pradeshiya Sabha to sell or otherwise dispose of any such property otherwise than in accordance with such terms and conditions as may be set out in the aforesaid vesting order, certificate or other record relating to such property;

(3) All property vested in Pradeshiya Sabhas shall be administered, and the revenue thereof shall be employed and made use of, for the purposes of this Act.

18. Other property vested in Pradeshiya Sabhas.

There shall be further vested in each Pradeshiya Sabha for the purposes of this Act, the following classes of property—

- (a) all public parks, gardens and open spaces acquired by or otherwise transferred to the Pradeshiya Sabha, and all erections and other structures therein and the equipment thereof, subject always to the terms of any trust or the conditions in any instruments by which any such property may have been transferred to the Pradeshiya Sabhas;
- (b) all public roads, streets, canals and bridges except such roads, streets, canals and bridges vested in any other authority under any other enactment together with the lands used for the purposes thereof, and all the pavements, stones and other materials thereof, and also all erections, materials, implements and other things provided therefor;
- (c) all public markets and all works, erections or structures for the benefit or convenience of the public which may be constructed, erected or provided under this Act, or which may have been constructed, provided or erected under any repealed enactment, or may be otherwise transferred, or have been transferred to the Pradeshiya Sabhas and all sites, appurtenances, materials, furniture and equipment thereof, subject always to any such trust or condition as aforesaid;
- (d) all other public buildings constructed or provided in whole or in part out of the funds of the Pradeshiya Sabha or which may be otherwise transferred to the Pradeshiya Sabha, and all the sites, appurtenances, materials, furniture, and equipment thereof, subject always to any such trust or condition as aforesaid;
- (e) the property of and in all the lamps, lamp irons, lamp posts, sluices, dams, pipes, posts, chains, piles, rails and other similar erections and things in, about, or belonging to the roads, streets, and public places vested in the Pradeshiya Sabha and of and in all the materials, furniture and things belonging thereto, except in so far as the same shall be otherwise regulated by contract with the Sabha or shall be otherwise shown to be private property or subject to private rights.

19. Powers of the Pradeshiya Sabha.

(1) For the purpose of the performance of its duties under this Act, a Pradeshiya Sabha (without prejudice to any other powers specially conferred upon it) shall, subject to the other provisions of this Act and to any rules made thereunder and the Local Government Service Law, No. 16 of 1974, have the following powers—

- (i) to create all such posts or offices as it may deem necessary and to assign to any such post or office, such salary, allowance or remuneration as the Pradeshiya Sabha may deem fit, subject however, to the prior approval in writing of the Commissioner regarding such creation and assignment of salary;
- (ii) to make appointments to any post or office in the service of the Pradeshiya Sabhas;
- (iii) to remove any officer or servant of the Pradeshiya Sabha;
- (iv) to abolish any post or office in the service of the Pradeshiya Sabha;
- (v) to grant pensions to officers and servants of the Pradeshiya Sabha on their retirement from service;
- (vi) to enter into any agreement with any other Pradeshiya Sabha or other local authority for the joint execution of any work or for the employment and remuneration of any officer or servant, of such Pradeshiya Sabha;
- (vii) to spend any part of the Pradeshiya Sabha Fund on maternity and child-welfare services, health education, maintenance of primary health centres, the training of midwives for the purpose of any maternity service established by the Pradeshiya Sabha, housing schemes, such charities or such measures for the relief of distress caused by rain, floods, gales, fire, earthquake, famine or epidemics, or such other purpose as may be approved by the Minister;
- (viii) to purchase or take on lease any land or building;
- (ix) to receive and hold property in trust for the inhabitants of the area for which such Pradeshiya Sabha is constituted or any section of such inhabitants, or for the purposes of any public service administered by the Pradeshiya Sabha, and to otherwise act as trustee for any public purpose;
- (x) to sell or exchange with the prior approval in writing of the Minister, any land or building belonging to the Pradeshiya Sabha or vested in it otherwise than by virtue of section 16 and subject to the terms and conditions of the instrument by which such land or building was transferred to the Pradeshiya Sabha;
- (xi) to let or lease with the prior approval in writing of the Minister, any land or building vested in the Pradeshiya Sabha by virtue of section 16 or section 18 and not required for a public purpose and subject to the terms and conditions of the instrument by which such land or building was transferred to or vested in the Pradeshiya Sabha;
- (xii) to let or lease any land or building belonging to the Pradeshiya Sabha or vested in such Pradeshiya Sabha, otherwise than by virtue of section 16 or section 18 and subject to the terms and conditions of the instrument by which such land or building was transferred to or vested in the Pradeshiya Sabha; Provided that no lease of any such land or building for a period exceeding three years shall be executed, without the prior approval in writing of the Minister;
- (xiii) to enter into any contract with any person for an work to be done, service to be rendered, goods or materials to be supplied;
- (xiv) to spend any part of the Pradeshiya Sabha Fund for the construction or alteration, improvement or maintenance of village works, and for the purpose of administering any property vested in or acquired by or otherwise transferred to the Pradeshiya Sabha, or of carrying out the provisions of this Act or any by-law made or deemed by virtue of any written law to have been made thereunder;
- (xv) to establish ferries, to impose and to levy or to lease the right to collect tolls at any ferry established or maintained by the Pradeshiya Sabha, and for the protection of such ferry, to prohibit or restrict private ferries by by-laws made in that behalf;
- (xvi) in the case of a ferry established or maintained between any place within the limits of any Pradeshiya Sabha and any place within the limits of any other Pradeshiya Sabha or within the administrative limits of any other local authority, to distribute the tolls that may be imposed or levied in respect of any such ferry, in such manner or proportion as may be fixed by agreement entered into with any other Pradeshiya Sabha or with such local authority, as the case may be, and to spend any part of the Pradeshiya Sabha Fund for any work of

construction or maintenance to be carried out beyond the limits of the Pradeshiya Sabha area in connection with any such ferry;

(xvii) to spend any part of the Pradeshiya Sabha Fund in the conduct of experiments in agriculture and the breeding of domestic animals and in the maintenance of experimental forms and studies for that purpose;

(xviii) to spend any part of the Pradeshiya Sabha Fund in the promotion of religion and culture, including the making of contributions towards the costs of the organisation of religious ceremonies and festivals, the maintenance of Dhamma Schools and Sasana Rakshaka Mandalayas, the establishment of cultural centres, the organisation of literary and cultural festivals, the publication of books of literary and cultural value and the award of prizes to artists, authors and craftsmen;

(xix) to—

(a) prepare and submit to the appropriate authority, a programme for the provision of educational facilities, such as buildings, furniture, playgrounds, hostels, teachers quarters, sports materials and library facilities, in the Pradeshiya Sabha area;

(b) recommend to the appropriate authority, the opening, closing, amalgamation, naming and upgrading of schools in the Pradeshiya Sabha area;

(xx) to organise employment programmes for the inhabitants of the Pradeshiya Sabha area;

(xxi) to implement any scheme or work delegated to it by the Development Council established for the administrative district within the limits of which the Pradeshiya Sabha area is situated;

(xxii) to spend any part of the Pradeshiya Sabha Fund, in promoting rural women's development activities, integrated development of selected villages, community development projects, and in making grants to rural development projects, Gramodaya Mandalayas and rural development organisations qualified to be represented on Gramodaya Mandalayas;

(xxiii) to spend any part of the Pradeshiya Sabha Fund, in the provision of relief to poor people, the rehabilitation and care of destitute persons and physically, mentally or socially handicapped persons;

(xxiv) with the prior approval of the Minister—

(a) to engage in commercial and industrial enterprises for the manufacture and production of such machinery, equipment, articles; materials and goods, as may be required for the public services or the public utility services, as the case may be, which may be established and maintained by any Municipal Council or Urban Council under the Municipal Councils Ordinance or the Urban Councils Ordinance respectively, or under any other written law; and

(b) to sell such machinery, equipment, articles, materials or goods to any Urban Council or Municipal Council or to the public at such prices as may be determined by the Pradeshiya Sabha and approved by the Minister;

(xxv) to make by its officers authorised in that behalf and the servants or workmen accompanying them, all such entries into lands and buildings and inspections thereon as may be necessary for the detection and abatement of nuisance, the detection prevention and abatement of all contraventions of this Act or of by-laws or rules made thereunder, or for the performance of acts required to be done under this Act in respect of which the owner or occupier is, or may be deemed to be, in default;

(xxvi) by its Chairman or other officers authorised by him, to hold all inquiries which the Chairman may deem necessary for any of the purposes of this Act, and for the purpose of all such inquiries, to administer oaths and summon witnesses;

(xxvii) to set apart such contributions from the Pradeshiya Sabha and as the Minister may approve towards the cost of any association of local authorities for the consideration of matters relating to local administration;

(xxviii) to spend any part of the Pradeshiya Sabha Fund in the payment of allowances to the Chairman, Vice-Chairman and other members at such rates as may be prescribed by rules;

(xxix) to spend any part of the Pradeshiya Sabha Fund in the payment of travelling allowances to members of the Pradeshiya Sabha, for attendance at meetings of the Pradeshiya Sabha, or to members or officers of the Pradeshiya Sabha attending, with the approval of the Pradeshiya Sabha any meeting or conference of members or officers of Pradeshiya Sabhas for the consideration of matters relating to local administration;

(xxx) to institute or defend any legal proceedings which the Pradeshiya Sabha may deem necessary to institute or defend for the purpose of enforcing or protecting the rights of the Pradeshiya Sabha or of the public or of protecting its members or officers in the execution or intended execution of their duties;

(xxxi) to enforce by-law made or deemed to have been made by it under this Act and to enter prosecutions in the Magistrate's Court for breaches of such by-laws; and

(xxxii) generally to do all things necessary for the effective exercise of the powers and duties of the Pradeshiya Sabha.

(2) —

(a) The Minister may approve any commercial or industrial enterprise under paragraph (XXIV) of subsection (1) having regard to—

(i) the economic viability of such enterprise;

(ii) the benefits that may accrue to any Pradeshiya Sabha and the public by the operation of such enterprise;

(iii) the financial position of the Pradeshiya Sabha engaging in such enterprise.

(b) No sums of money appropriated or granted to a Pradeshiya Sabha by Parliament under paragraph (c) or (d) or (i) of subsection (2) of section 129 shall be utilised by such Sabha for the purpose of establishing or maintaining any commercial or industrial enterprise.

(c) Where the Minister is of the opinion that the continued operation of any commercial or industrial enterprise of any Pradeshiya Sabha would be prejudicial to the interest of such Sabha by reason of mismanagement or that it is likely to involve financial loss to the Sabha, he may, after consultation with the Sabha, by Order published in the *Gazette* terminate the operation of such enterprise and direct the Sabha to take charge of all books, records and assets of the enterprise and to take such measures that may be necessary to give effect to such Order.

(3) The Minister or the Commissioner may, from time to time, give any Pradeshiya Sabha engaged in any commercial or industrial enterprise general or special directions as to the carrying on or transaction of its business and such directions shall be carried out by the Sabha.

(4) The Minister or the Commissioner may, from time to time, direct the Sabha in writing to furnish him in such form as he may require, returns, accounts and other information with respect to the business of such enterprise, and the Sabha shall carry out recovery such direction.

20. Power to authorise surveys.

(1) Whenever it appears to the Chairman of any Pradeshiya Sabha that an examination or a survey of any private land, building, or premises is necessary for any public purpose in the area for which the Pradeshiya Sabha is constituted, it shall be lawful for the Chairman to direct any officer or servant of the Pradeshiya Sabha to make such examination or survey, and it shall thereupon, be lawful for such officer or servant and his workmen to enter such land, building or premises and to do thereon all of the following acts—

(a) to make a survey and to take levels;

(b) to dig or bore into the sub-soil;

(c) to do other acts to ascertain whether the land, building, or premises is or are adaptable to such public purpose;

(d) to set out the boundaries of any land which is to be acquired, or street lines, or the lines of any work proposed to be carried out;

(e) to make such levels, boundaries, or lines, by placing permanent marks on existing buildings, trees, posts, walls, fences or other fixed objects, or by fixing new marks, or by cutting trenches as the case may require;

(f) and where otherwise a survey cannot be complete or levels taken, or the boundaries and the line marked, to cut down, and clear away any obstructions interferon with the execution of such work.

(2) Where any damage is caused to any land or to anything thereon by the performance of any of the acts referred to in subsection (1), fun compensation shall be paid by the Pradeshiya Sabha to the owner or other person entitled thereto.

(3) No person shall enter any building or any enclosure attached to a dwelling house for the purposes of subsection (1) except with the written consent of the occupant thereof, or it such consent is withheld with the written sanction of the Chairman of the Pradeshiya Sabha.

(4) Every mark fixed on any land under this section shall be deemed to the property of the Pradeshiya Sabha.

PART III

POWERS AND DUTIES AS TO THOROUGHFARES

21. Pradeshiya Sabha to be the general authority for thoroughfares and communications.

(1) Subject to the powers and responsibilities by law committed to any other authority, the Pradeshiya Sabha shall be the general administrative authority for the purpose of all thoroughfares and communications, other than principal thoroughfares, within its administrative limits, with all such powers as are vested in it under this Act, the Housing and Town Improvement Ordinance, and any other enactment from time to time enacted in that behalf.

(2) Subject to such directions as may be given by the Minister from time to time by Order published in the *Gazette*, the Pradeshiya Sabha shall be the administrative authority for the purposes of the protection of any principal thoroughfare that may be situated within its area, and shall be entitled for such purpose to exercise or perform in relation to any such principal thoroughfare, any of the powers or duties conferred or imposed by sections 43 to 67 (both inclusive) relating to buildings along thoroughfares, obstructions to thoroughfares, encroachments on thoroughfares, injuries to thoroughfares and nuisances on thoroughfares.

22. General powers of Pradeshiya Sabha with regard to thoroughfares and open spaces.

Subject to the powers and responsibilities by law belonging to any other authority, it shall be the duty of the Pradeshiya Sabha and every such Pradeshiya Sabha is hereby empowered, to take all necessary measures for securing and maintaining all public rights, interests, and amenities arising out of, or in connection with, all thoroughfares or upon spaces within its area and for utilising, regulating, adapting, and developing such thoroughfares or open spaces for public purposes.

23. Thoroughfares vested in Pradeshiya Sabha.

All thoroughfares within the Pradeshiya Sabha area, other than principal thoroughfares, except in so far as such thoroughfares are already vested by virtue of any other enactment, shall be deemed to be vested in the Pradeshiya Sabha of that area.

24. Pradeshiya Sabha to demarcate and publish a list of roads and paths.

(1) It shall be the duty of every Pradeshiya Sabha within three years of the coming into force of these provisions or within such further period as may in the special circumstances of any case be allowed by the Minister—

(a) to demarcate by permanent marks the limits of the roads and paths maintained by the Pradeshiya Sabha and cause to be prepared plans of all such roads and paths; and

(b) to cause notices to be published in the prescribed manner setting out a list of such roads and paths.

(2) Upon the publication of such notices any party claiming to be the owner of land from which such road or path has been demarcated shall within the time prescribed by such notice institute action in the appropriate court for establishing his title to such land.

(3) After the expiration of a period of three months and before the expiration of a period of six months from the date on which the notice under subsection (1) is published in the *Gazette*, the

Pradeshiya Sabha shall cause to be published a notice in the prescribed manner setting out a list of all such roads and paths as set out in the notice published under subsection (1)—

- (a) excluding those roads and paths or portions of roads and paths in respect of which no final determination had been made in any action instituted as required by subsection (2); and
- (b) with the necessary alterations made in the demarcation of the limits of such roads and paths and in such plans in respect of which a final determination had been made in any action instituted as required by subsection (2).

(4) Where a final determination has been made on any action instituted as required by subsection (2) after the publication of the notice under subsection (3), the Pradeshiya Sabha shall cause a notice, to be published in the prescribed manner, setting out a supplementary list of such roads and paths or portions of roads and paths. Before the publication of this notice the necessary alterations shall be made in the demarcation of the limits of the roads and paths and in the plans on the basis of the final determination made in respect of any action instituted as required by subsection (2).

(5) Upon the publication of such notice under subsection (3) or (4), all such roads and paths or portions of such roads and paths as defined in such notices and depicted by such plans shall be deemed to be vested in the Pradeshiya Sabha.

(6) Whenever any road or path or any portion of any road or path vested in a Pradeshiya Sabha ceases to be used as a road or path the Pradeshiya Sabha shall publish an amendment to the notice under subsection (3) or (4).

25. Prescription.

Neither the provisions of the Prescription Ordinance, nor those of any other law relating to the acquisition of rights by virtue of possession or user, shall apply in the case of the roads within the limits of any Pradeshiya Sabha; and no person shall be entitled to any exclusive rights of ownership, possession or use over or in respect of any such road or any portion thereof by reason of his having, either before or after the coming into operation of this Act, had possession, or use of any description whatsoever of such road or portion thereof.

26. Notices how served.

Every notice required to be given under this part may be served either personally upon such person, or by leaving it with some member of his household, or by affixing it to some conspicuous part of his residence.

27. Power of Pradeshiya Sabha to construct new and improve existing thoroughfares.

The Pradeshiya Sabha of each Pradeshiya Sabha area may within that area—

- (a) layout and construct new roads, streets, bridges, tunnels or other thoroughfares;
- (b) widen, open, enlarge or otherwise improve or turn, divert, discontinue, or stop up, whether in whole or in part, any public street or thoroughfare, not being a principal thoroughfare, and with the sanction of the Minister in charge of the subject of highways, any principal thoroughfare, making due compensation to the owner or occupier of any property required for such purposes, or any person whose legal rights are thereby infringed.

28. Acquisition of lands for diversions or enlargements.

(1) If in connection with the turning, diversion, widening, opening, enlargement, or improvement of any thoroughfare it becomes necessary for any Pradeshiya Sabha to take possession, for public use, of the land of any person, it shall be lawful for such Pradeshiya Sabha to make an agreement with the owner for the compensation to be paid for such land, and for any building, boundary wall, gateway, fence or tree standing thereon, either by allowing him to possess the ground, or part of the ground, of the former thoroughfare, or by the grant of other land in exchange or by payment of money or by any two or more of such methods.

(2) Any land of which possession is taken by a Pradeshiya Sabha in pursuance of any agreement under subsection (1) shall vest in the Pradeshiya Sabha without any formal transfer thereof, and the certificate of the Chairman that a person has been allowed by the Pradeshiya Sabha to possess any

part of the ground of any former road or any land given in exchange under subsection (1), together with a survey thereof, shall be sufficient proof of the right of such person to such ground or land.

(3) Where a Pradeshiya Sabha cannot agree with the owner of any land as to the compensation to be paid under subsection (1), or where such owner cannot be found, or where the Pradeshiya Sabha does not deem it advisable to enter into any agreement with the owner of any land, then proceedings may be taken to obtain possession of such land and for compensating to the owner, in the manner prescribed by section 128.

(4) Every agreement under subsection (1) shall be in writing, and section 2 of the Prevention of Frauds Ordinance shall not apply to any such agreement or to any certificate issued under subsection (2).

29. Gifts of lands required for diversion or enlargement of thoroughfare.

If in connection with the turning diversion, widening, opening, enlargement or improvement of any thoroughfare, it becomes necessary for any Pradeshiya Sabha to take possession of the land of any person for public use, and if the person claiming to be the owner of the land desires to make a gift of the land to the Pradeshiya Sabha for such purpose, a record in writing to that effect duly signed by such person in the presence of the Chairman or of a person authorised by the Chairman in writing in that behalf shall be sufficient to vest the land in the Pradeshiya Sabha. No such record shall be deemed to be invalid or of no effect in law by reason only that the requirements of section 2 of the Prevention of Frauds Ordinance have not been complied with as to attestation by a notary public and by witnesses.

30. Power to dispose of discontinued street.

Whenever any street or chef thoroughfare or any part of any street or thoroughfare vested in a Pradeshiya Sabha ceases to be used as a street or thoroughfare, the Pradeshiya Sabha, with the prior approval of the Minister, may sell, lease or exchange such street or other thoroughfare or part thereof.

31. Power to take land adjoining new street for building purposes.

In laying out or constructing any new street or thoroughfare, or in turning, diverting, widening, opening, enlarging, or otherwise improving, any street or thoroughfare, a Pradeshiya Sabha may, in addition to the land required for the purposes of the carriageways and footways thereof, also purchase the land necessary for houses and buildings to form the said street or thoroughfare, and may sell, lease or otherwise dispose of the same, subject to the provisions of paragraphs (x), (xi) and (xii) of section 8 and subject to such stipulations and conditions as to the class and description of houses or building to be erected thereon as the Pradeshiya Sabha may think fit.

32. Other powers of a Pradeshiya Sabha.

It shall be lawful for a Pradeshiya Sabha without prejudice to any other powers vested in it, to do any of the following acts—

- (a) to water the streets;
- (b) to remove encroachments and obstructions in or upon any street or thoroughfare subject to the condition that where the person responsible therefore is known to the Pradeshiya Sabha such action shall be taken by the Pradeshiya Sabha only after notice has been given to him, and he fails to remove such encroachments or obstructions within such time as may be specified in the notice or with due diligence;
- (c) to paint up the names of streets and the numbers of houses or tenements on any private property;
- (d) to shut up and secure deserted houses;
- (e) to recover in the manner hereinafter provided, the expenses incurred by any action taken under paragraphs (b) and (d) hereof from the person whose act or neglect shall have rendered such action necessary.

33. Roads for benefit of individual property owners.

The Pradeshiya Sabha may, at the request of the owner or owners of anyone or more estates or industrial enterprises situated within its limits, in any case in which the Pradeshiya Sabha is of opinion that the public interest would not otherwise justify the construction or maintenance of a road in such a locality, contract with such owner or owners, for the construction or maintenance of a road for the service of the estate or estates, or the enterprise or enterprises in question, subject to the payment of such contribution towards the expenses of such construction or maintenance as may be approved by the Pradeshiya Sabha and subject to the Condition that by an appropriate instrument such road is constituted a public road and is vested in the Pradeshiya Sabha, and all such agreed contributions shall be deemed to be special rates imposed upon the lands benefited, and shall be recoverable in the same manner as a rate imposed under this Act, and all the provisions of this Act relating to rates shall apply thereto.

34. Public vehicular communications.

A Pradeshiya Sabha may subject to such prohibition or restriction as may be imposed in respect thereof by any other law, and, in so far as any principal thoroughfare may be thereby affected, subject to the approval of the Minister in charge of the subject of highways, organise and maintain, either by itself and its officers, or by agreement with any promoter or promoters any form of public vehicular communication for the service of the inhabitants of any area within the administrative limits of the Pradeshiya Sabha.

35. Houses in a ruinous and dangerous state.

If any house, building, bounding wall or gateway adjoining any street or thoroughfare in any area or anything affixed thereon, be deemed by the Pradeshiya Sabha of that area to be in a ruinous state, whether dangerous or not, or to be likely to fall, the Pradeshiya Sabha shall immediately if it appears to be necessary, cause a proper hoarding or fence to be put up for the protection of persons using such street or thoroughfare, and shall cause notice in writing to be served on the owner or occupier forthwith to take down, secure, or repair such house, building, boundary wall, gateway or thing affixed thereon, as the case may require.

36. Failure to comply with notice.

If any person, on whom a notice is served by or on behalf of a Pradeshiya Sabha under section 35, does not begin to comply with such notice within three days of the service thereof or does not complete the work with due diligence, the Pradeshiya Sabha shall cause all or so much of the work as it may think necessary to be carried out, and all the expenses incurred by the Pradeshiya Sabha shall be paid by such person and shall be recoverable as hereinafter provided.

37. Sale of materials of ruinous houses.

If any house, building or wall, or any part thereof be pulled down by any Pradeshiya Sabha under section 36, the Pradeshiya Sabha may sell the materials thereof, or so much of the materials as may have been taken down, and apply the proceeds of such sale in payment of the expenses incurred, and shall, on demand, pay any surplus arising from such sale to the owner of such house, building, or wall:

Provided always that, in case no demand for such surplus is made within twelve months by any person entitled to make such demand, the Pradeshiya Sabha shall be at liberty to pay the amount of such surplus to the credit of the Fund of the Pradeshiya Sabha, and shall be freed from any liability to pay or answer for or in respect of such unclaimed surplus:

Provided, further, that the Pradeshiya Sabha, notwithstanding that it may have sold such materials for the purposes aforesaid, shall have the same remedies for compelling the payment of so much of the expenses as may remain due after the application of the proceeds of the sale, as by this Act are given to it for compelling the payment of the entirety of the expenses.

38. Maintenance and repair of thoroughfares.

It shall be lawful for the proper officer of the Pradeshiya Sabha and for the servants, workmen, and labourers employed by or under him, at all time, and with all necessary and proper carriages, carts, animals and other means, to enter upon any land adjacent or near to any existing or intended thoroughfare within that area, and there severally to do and perform all acts, matters, and things necessary for the purpose of tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving, or fencing any such thoroughfare, or for building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon, or in any way connected therewith, or for performing any act, matter, or thing under the provisions of this Act.

39. Power to take materials.

It shall be lawful for the proper officer of the Pradeshiya Sabha and for the servants, workmen, and labourers employed by or under him, at all reasonable times, and with all necessary and proper carriages, carts, animals, and other means, to search for, dig, cut, take, and carry away any water, timber, brushwood, stone, gravel, clay, or any other materials whatsoever, for the purpose of trading, measuring, making, working, opening, altering, turning, repairing, clearing, improving, or fencing, or in any way assisting in the tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving or fencing any existing or intended thoroughfare in that Pradeshiya Sabha are or of building, excavating, repairing, clearing or improving any bridge, fence, drain, dam, or ditch thereupon or in any way connected therewith; or for the construction or repair of any lines or any buildings whatsoever required on or near any such thoroughfare for the use of any officer as aforesaid, or any workmen, animals, carriages, carts, persons, or things employed in his service, in and from any land adjacent or near to any such thoroughfare, and to carry away the same through the land of any person, without being deemed a trespasser:

Provided that no such materials shall be dug for, cut, or taken away, upon or from any yard, avenue, to a house, or lawn or any enclosed garden, plantation, field, or wood, without the consent of the owner thereof, unless sufficient materials cannot conveniently be obtained from the neighbouring waste lands or common or amended grounds, in which case the said officer may take any of such materials where he can conveniently procure them;

Provided, also, that reasonable compensation for all materials so taken and for the damage done in taking and carrying away the materials, shall be made to the owner thereof;

Provided, further, that such officer shall rail or fence off any quarry or pit from which any such materials may be taken, so that it may not be dangerous to any person or animal.

40. Power to erect buildings and keep cuticle.

It shall be lawful for the proper officer of the Pradeshiya Sabha of any area when tracing, measuring, making, working, opening, altering, turning, repairing, clearing, or improving any existing or intended thoroughfare within that area or building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch there upon, or in any way connected therewith—

(a) to make and erect temporary buildings and any land adjacent or near thereto for the accommodation of the servants, workmen, labourers, animals, carriages, or things employed by him during the progress of the work; and

(b) to keep all such animals as may be employed by him duly tethered and stabled upon any land near or adjacent thereto, and to continue so to keep the animals on such lands for such time as may be necessary:

Provided that no such building shall be erected, nor any such animal kept on any land which is under cultivation or is situated in any area where there are neighboring waste lands or common or abandoned grounds available for the purpose;

Provided, further, that reasonable compensation for any damage done to the land shall in all cases be made to the owner thereof.

41. Power to throw rubbish upon adjacent lands.

In the tracing measuring making, working, opening, altering, turning, repairing, clearing, or improving of any existing or intended thoroughfare within any Pradeshiya Sabha or building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon or in any way connected therewith, it shall be lawful for the proper officer of any Pradeshiya Sabha of the area to throw upon any lands adjacent or near to the thoroughfare such earth, rubbish, or materials as it may seem necessary to remove from the place of any such work:

Provided that all earth, rubbish or materials thrown upon any such land by the proper officer shall be removed by him from such land within a reasonable time.

42. Power to make temporary road.

It shall be lawful for the proper officer of the Pradeshiya Sabha to make a temporary road through the grounds adjacent or near to any existing or intended thoroughfare within the limits of the Pradeshiya Sabha during the executing of any work thereupon or any work in any way connected therewith:

Provided that such road shall not be made over any ground whereon any building stands or over any enclosed garden or yard.

43. Power to cut trees.

It shall be lawful for the proper officer of the Pradeshiya Sabha to cut and remove, and place upon any adjacent or neighbouring land, any trees, bushes or shrubs, and all leaves or branches or roots of trees that shall grow on or overhang any thoroughfare within the limits of the Pradeshiya Sabha or cause any obstruction therein, and for that purpose to enter upon any land or premises with such persons, animals and instruments as may be necessary, and to proceed to do therein all such things as may be necessary for the cutting, lopping or removing of such trees, bushes, shrubs, leaves, branches or roots:

Provided that all trees, bushes, or shrubs, and all leaves or branches or roots of trees placed upon any such land by the proper officer shall be removed by him from such land within a reasonable time.

44. Power to put up fences.

It shall be lawful for the proper officer of the Pradeshiya Sabha to put up or make fences, hedges, ditches, drains, or banks by the side of any thoroughfare within the limits of the Pradeshiya Sabha, whenever to him it shall appear necessary, and the owner or occupier of each land adjoining such fences, hedges, ditches, drains, or banks shall, and he is hereby required to keep them in good and substantial repair and order.

45. Power to make and keep ditches and to lay trunks.

The proper officer of the Pradeshiya Sabha shall have power to make, secure, cleanse, and keep open all ditches, gutters, drains or watercourses along any thoroughfare within the limits of the Pradeshiya Sabha and also to make and lay such drains, watercourses, trunks, tunnels, plats, or bridges, as he may deem necessary for the protection, preservation, improvement, repair, or construction of any thoroughfare or intended thoroughfare in and through any lands or grounds adjoining or lying near to such thoroughfare or intended thoroughfare.

46. Power to lay stones.

The proper officer of the Pradeshiya Sabha shall have power to lay any heap of stone or gravel, or any log of wood, or any other matter or thing whatsoever, upon any thoroughfare within the limits of the Pradeshiya Sabha, and to allow such matter to remain there during the time such road is under repair, and for such time before the repairs are commenced and after the repairs are completed, as may be necessary for facilitating the making of such repairs or for preventing damage to such recently repaired road, but he shall take due and reasonable precaution for preventing danger or injury to persons passing along such road.

BUILDING ALONG THOROUGHFARES

47. Notice of intended building along a thoroughfare.

(1) It shall not be lawful for any person to commence any building, boundary wall, gateway or fence along any thoroughfare within to limits of any Pradeshiya Sabha or to erect any temporary fence or enclosure on any such thoroughfare for the purpose of commencing or repairing any such building, boundary wall or gateway without giving one calendar month's previous notice in writing to the Pradeshiya Sabha.

(2) Any person neglecting to give the notice prescribed by subsection (1) or to remove any building, boundary wall, gateway or fence erected without such notice when he is required in writing to do so by the Pradeshiya Sabha under this subsection, shall be guilty of an offence, punishable with a not exceeding hay rupees, and with a further fine not exceeding twenty rupees for each day he suffers or allows such building, boundary wall, gateway or fence to remain after he is required to remove as aforesaid.

(3) It shall be lawful for the Pradeshiya Sabha to remove or cause to be removed any building, boundary wall, gateway, fence or enclosure, commenced or erected without the notice prescribed by subsection (1) and to recover the costs of such removal in the manner provided in section 59 for the recovery of the costs therein mentioned.

(4) Nothing herein contained shall be deemed to deprive any Pradeshiya Sabha of the power, hereinafter conferred on such Pradeshiya Sabha, of removing any such building, boundary wall, gateway, fence, or enclosure, which may subsequently be discovered to be an encroachment on a thoroughfare, notwithstanding that no proceedings may have been taken by the Pradeshiya Sabha on the notice given in respect of such building, boundary wall, gateway, fence or enclosure under subsection (1).

48. Erection of temporary fences and enclosures.

(1) Nothing contained in section 47 shall be construed to prevent any public officer, duly authorised in that behalf, from making temporary use of any part of any thoroughfare for the public service, or to prevent the Pradeshiya Sabha from granting a licence to the inhabitants of the Pradeshiya Sabha area for the erection of temporary fences and enclosures on any thoroughfare, in connection with the building, pulling down, or referring of their houses and other buildings, or for temporary decorations within that area on such terms and conditions as the Pradeshiya Sabha may deem proper, including conditions as to—

- (a) the length, breadth and height of such enclosure;
- (b) the space to be allowed for carriages and carts, or boats, to pass along the thoroughfare; and
- (c) the exhibition by the person obtaining such licence, daily between sunset and sunrise throughout the period during which the fence or enclosure is maintained or continued by him, of a light sufficient to indicate clearly the exact situation of the fence or enclosure or any obstruction caused thereby.

(2) Every holder of a licence granted under subsection (1) who commits a breach of any of the conditions of such licence and every person who removed or extinguished any light placed and kept in accordance with the requirement of the conditions of such licence, shall be guilty of an offence, punishable with a fine not exceeding ten rupees.

49. Building limits along roads.

Notwithstanding anything contained in the Housing and Town Improvement Ordinance, or other law it shall not be lawful for any person—